

REC'D
MAY 02 2016

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COMMITTED TO OUR CLIENTS, OUR PROFESSION, AND JUSTICE

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Environmental Protection Agency
Kenneth A. Redden, Claims Office
US EPA Office of General Counsel
1200 Pennsylvania Ave, NW
Washington, DC 20004

April 26, 2016

Re: Gold King Mine Spill

To Whom It May Concern:

Please accept this letter as notice of intent to litigate claims against the United States Environmental Protection Agency. The circumstances giving rise to these potential claim(s) are as follows:

On or about August 5, 2015, the Gold King Mine Spill Was Caused by the negligence of the Federal Government by and through the Environmental Protection Agency and its contracted entities.

Enclosed herein, please find form 95's with their attached exhibits for the following clients:

1. (b)(6)

2.

3.

4.

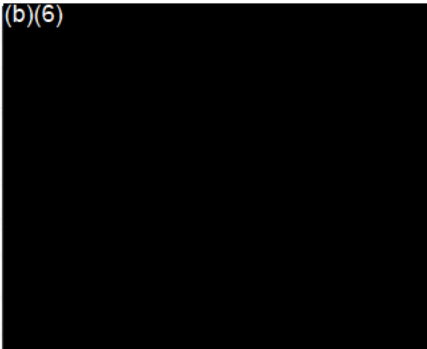
5.

6.

7.

8.

9.



By this letter, please be notified that the above named claimants may bring an action against the United States Environmental Protection Agency.

WILL FERGUSON & ASSOCIATES

Derek V. Garcia
Derek V. Garcia
Attorney at Law
DVG/dmw

Report for February 2016 Quarterly Sampling event
Gold King Mine Spill Monitoring Project 2016

Prepared by: ***Sangre De Cristo Sciences, LLC***

Prepared for:

WILL FERGUSON & ASSOCIATES
ATTORNEYS AT LAW

March 11, 2016

Will Ferguson & Associates

1720 Louisiana Blvd. NE Suite 100

Albuquerque, NM 87110

Project Name

Gold King Mine Spill, February Quarterly 2016 Sampling Event

OVERVIEW

In an attempt to obtain a “statistically accurate” determination of contamination as a result of the Gold King Mine Spill in August 2015, samples have been collected from various locations within the “active contamination zone” in the areas of the Animas and San Juan River basins. Unfortunately, mines continue leaking wastewater into New Mexico and Colorado Rivers. Discussions with individuals in these current sampling locations indicated that these leaks and the river turning orange have been going on for years. NMED and USEPA officials have been touring the area to determine if the areas affected by the spill can be turned into a Superfund cleanup program and if this is actually the most effective way to heal the damage caused by the spill.

On August 5, 2015 a 3 million gallon spill from the Gold King Mine unleashed water tainted with heavy metals into Colorado, New Mexico and Utah rivers as well as the Southern Ute Tribe and Navajo Nation. The purpose of this project is to provide and document continued monitoring of targeted areas in the San Juan and Animas river basins. Ongoing monitoring will need to be performed over time to assess the existence of contamination, and the potential of further migration.

Our ongoing effort of this project is to provide and document continued monitoring of targeted areas in the San Juan and Animas river basins. February 24, 2016 was the 1st quarterly sampling event on record since the spill to assess the contamination and the further migration.

In order to achieve an accurate representation of the analytical data, a supportive statistical population of data must be collected to present precision and accuracy of the areas affected and the potential health risks that can be attributed to the mine spill. This means samples must be taken over time to document the contamination and effects of the contamination on the environment and the people involved. Mostly, migration of contaminants into a water source occurs as contaminants can move through the environment and migration is slowed by many factors.

GOALS

1. Continued surveying of contamination in individual property owner's areas.
2. Identify the level of contamination and effects on individuals and animals (if detected).
3. Outline possible solutions or actions to recommend if contamination is found to be problematic.

SPECIFICATIONS

On February 24, 2016 a representative of Sangre De Cristo Sciences, LLC traveled to Aztec, NM to perform sampling of 5 new areas that are believed to be impacted by the Gold King mine spill in August 2015. Samples were collected from the five (5) individual properties adjacent to the Animas River listed below.

- (b)(6)
-
-
-
-

Based upon the findings some areas were adversely affected by the mine spill. This includes both water and soil samples. The following analytical laboratory report list the contaminants found at each of the chosen sites. A table has been designed to illustrate the USEPA established drinking water standard for safe consumption versus the results of the findings and how they compare or exceed the Safe Drinking Water Act (SDWA) Standards.

Additionally, in speaking with some of the client's months after the spill occurred, some troubling impacts have been documented and noted. See below: (Photo graphs attached)

(b)(6) has 3 wells on his property directly adjacent to the Animas River. (b)(6) has been using the water for bathing and has developed (b)(6) (See attached photos). (b)(6) claims that his (b)(6) since the spill occurred. Also the same location as (b)(6) (b)(6)

(b)(6) continued to use the water for the purposes of bathing, dishwashing etc. and (b)(6) has (b)(6) the spill occurred. She has since spent over \$10,000 to switch over to the city water system and was offered no financial assistance and had to take out a loan. Additionally, (b)(6) indicated that she has since lost all of her livelihood which is natural gardening, greenhouse etc. as a result of the tarnished water. They have ceased using the water.

(b)(6) indicated that (b)(6) No one in the area is able to use the water for any type of irrigation or other uses. Also had to suspend use of his well and pay over \$10,000 to switch over to City water system. No financial assistance provided and had to take out a loan.

(b)(6) has a unique property overlooking the Animas River and all her orchard and gardening areas (she also does Natural gardening for health reasons) is ruined. The fruit trees have died and her garden soil is contaminated as well as her fountain and most other things that were dependent upon the Animas River water.

(b)(6) stated that she used the irrigation water for all of her gardening and other pets. Since the spill she no longer has the ability to use the water since it is contaminated and the initial spill and usage of the water contaminated her gardening property.

Heavy metal poisoning is the accumulation of heavy metals in the soft tissues of the body. Symptoms and physical findings associated with heavy metal poisoning vary. Many heavy metals such as Zinc, Copper,

Chromium, Cadmium, Arsenic and Iron are essential to body function in very small amounts. However, if these metals accumulate in the body, then serious damage may occur. The heavy metals most commonly associated with poisoning of humans are lead, mercury, arsenic and cadmium and can begin to be seen about 2 – 8 weeks after exposure.

The below lists the metals that were analyzed in the subject samples and the health effects of each heavy metal.

- **Arsenic** – Most forms of Arsenic are toxic. *Acute* symptoms following ingestion relate to irritation of the G.I. tract, nausea, vomiting, diarrhea which can progress to shock and death in extreme cases. *Chronic* poisoning can result in exfoliation of pigmentation of skin, herpes, polyneuritis and degeneration of kidneys and liver
- **Barium** – All forms of Barium are toxic and have an adverse effect on the cardiovascular system. Some studies indicate that Barium can lead to low blood Potassium, respiratory failure, G.I. dysfunction, muscle twitching and elevated blood pressure
- **Cadmium** – Very toxic. Ingestion of Cadmium causes increased salivation, choking vomiting, abdominal pain, throat dryness, cough, headache, vomiting, and chest pain. Can cause kidney damage.
- **Chromium** – Chromium is very toxic and is a known carcinogen and ingestion is known to cause irritation of the G.I tract, circulatory shock and renal damage.
- **Lead** – Lead is very toxic especially in children. Delays in physical or mental development, anorexia, vomiting, malaise and possible convulsions due to intracranial pressure.
- **Mercury** – Toxic. Acute toxicity includes: nausea, vomiting, abdominal pain, diarrhea and kidney damage. Chronic Toxicity is inflammation of mouth and gums, loosening of teeth, kidney damage, muscle spasms and tremors.
- **Silver** – No known health effects other than coloration of skin. USEPA Regulates it at 0.10 mg/L
- **Selenium** – In excessive amounts can cause fingernail loss, numbness in fingers or toes and circulatory problems.
- **Aluminum** – USEPA regulates it in Drinking Water at 0.05 mg/L. Some reports in the World Health Organization indicate aluminum may cause dementia and Alzheimer's disease. Also, infants and the elderly who suffer from diseases of the kidneys or liver may be especially sensitive to the effects of ingested aluminum.
- **Zinc** – USEPA regulates it in Drinking Water at 5 mg/L. The effects of elevated levels of zinc on the body include stomach cramps, nausea and sometimes vomiting. May also cause anemia, and damage to the pancreas.
- **Manganese** – USEPA Regulates Manganese at 0.05 mg/L. The effects of Manganese on the body fatigue, weakness, emotional disturbances and paralysis.

Table 1: USEPA Safe Drinking Water Maximum Contaminant Levels (MCL) and actual findings:

February 2016 Sampling Event

Client Location	Arsenic MCL 0.01 mg/L	Barium MCL 2 mg/L	Cadmium MCL 0.05 mg/L	Chromium MCL 0.1 mg/L	Lead MCL 0.015 mg/L	Silver MCL 0.1 mg/L	Zinc MCL 5.0 mg/L	Nickel MCL 1.3 mg/L	Aluminum MCL 0.05 mg/L	Manganese MCL 0.05 mg/L
(b)(6)	<0.01	0.119	<0.05	<0.1	0.0056	<0.1	0.0821	0.0161	1.48	0.152
(b)(6)	5.07	241	<0.05	12.9	75.2	<0.1	414	9.20	25,700	597
(b)(6)	<0.01	0.0144	<0.05	<0.1	<0.015	<0.1	0.269	<0.01	<0.1	<0.015
(b)(6)	3.49	107	<0.05	6.20	19.6	<1	89.7	6.49	9460	324
(b)(6)	<0.01	0.0526	<0.05	<0.1	<0.015	<0.1	<0.05	<0.01	<0.1	<0.015
(b)(6)	3.88	130	<1	9.74	110	<1	222	7.27	13,500	479
(b)(6)	<0.01	0.0243	<0.05	<0.1	0.0120	<0.1	<0.05	<0.01	<0.1	7.62
(b)(6)	<0.01	0.131	0.0027	<0.1	0.0342	0.007	3.31	0.0836	45.9	3.23
(b)(6)	<0.01	0.0223	<0.05	<0.1	<0.015	<0.1	<0.05	<0.01	<0.1	1.72
(b)(6)	6.46	219	<1	8.89	81.0	<1	203	6.68	13,900	532
(b)(6)	0.164	3.63	0.131	0.380	0.177	0.0698	1.30	0.221	5.29	660
(b)(6)	8.38	202	1.04	8.24	137	<1	297	6.70	14,700	607

Analytical Report for (b)(6)
(b)(6)
Aztec, NM

Analytical Report for (b)(6)

(b)(6)

Aztec, NM

Analytical Report for (b)(6)
(b)(6)
Aztec, NM

Analytical Report for

(b)(6)

(b)(6)

Analytical Report for

(b)(6)

(b)(6)

TestAmerica

THE LEADER IN ENVIRONMENTAL TESTING

ANALYTICAL REPORT

TestAmerica Laboratories, Inc.
 TestAmerica Nashville
 2960 Foster Creighton Drive
 Nashville, TN 37204
 Tel: (615)726-0177

TestAmerica Job ID: 490-98227-1
 TestAmerica Sample Delivery Group: (b)(6)
 Client Project/Site: Animas River Mining Spill
 Revision: 1

For:
 Sangre De Cristo Sciences, LLC
 105 2nd Street SE
 Rio Rancho, New Mexico 87124

Attn: Mr. Elvin Chavez

Jennifer Gambill

Authorized for release by:
 3/11/2016 11:22:54 AM

Jennifer Gambill, Project Manager I
 (615)301-5044
 jennifer.gambill@testamericainc.com

LINKS

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 results through
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 The
 Expert**

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www.testamericainc.com

The test results in this report meet all 2003 NELAP and 2009 TNI requirements for accredited parameters, exceptions are noted in this report. This report may not be reproduced except in full, and with written approval from the laboratory. For questions please contact the Project Manager at the e-mail address or telephone number listed on this page.

This report has been electronically signed and authorized by the signatory. Electronic signature is intended to be the legally binding equivalent of a traditionally handwritten signature.

Results relate only to the items tested and the sample(s) as received by the laboratory.

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Sample Summary

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Lab Sample ID	Client Sample ID	Matrix	Collected	Received
490-98227-1	Property River Water	Water	02/24/16 09:00	02/26/16 10:00
490-98227-2	Soil-Property	Solid	02/24/16 09:00	02/26/16 10:00

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Case Narrative

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Job ID: 490-98227-1

Laboratory: TestAmerica Nashville

Narrative

Job Narrative
490-98227-1

Revised Report

The following report has been revised to correct the metals list for sample Soil-Property (490-98227-1).

Comments

No additional comments.

Receipt

The samples were received on 2/26/2016 3:11 PM; the samples arrived in good condition, properly preserved and, where required, on ice. The temperature of the cooler at receipt was 4.9° C.

Metals

Method(s) 6010C: The continuing calibration verification (CCV) associated with batch 490-322041 recovered above the upper control limit for Silver and Chromium. The samples associated with this CCV were non-detects for the affected analytes; therefore, the data have been reported. The following sample is impacted: Property River Water (490-98227-1).

No additional analytical or quality issues were noted, other than those described above or in the Definitions/Glossary page.

Definitions/Glossary

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Qualifiers

Metals

Qualifier	Qualifier Description
^A	ICV, CCV, ICB, CCB, ISA, ISB, CRI, CRA, DLCK or MRL standard. Instrument related QC is outside acceptance limits.
F1	MS and/or MSD Recovery is outside acceptance limits.
4	MS, MSD: The analyte present in the original sample is greater than 4 times the matrix spike concentration; therefore, control limits are not applicable.

Glossary

Abbreviation	These commonly used abbreviations may or may not be present in this report.
"	Listed under the "D" column to designate that the result is reported on a dry weight basis
%R	Percent Recovery
CFL	Contains Free Liquid
CNF	Contains no Free Liquid
DER	Duplicate error ratio (normalized absolute difference)
Dil Fac	Dilution Factor
DL, RA, RE, IN	Indicates a Dilution, Re-analysis, Re-extraction, or additional Initial metals/anion analysis of the sample
DLC	Decision level concentration
MDA	Minimum detectable activity
EDL	Estimated Detection Limit
MDC	Minimum detectable concentration
MDL	Method Detection Limit
ML	Minimum Level (Dioxin)
NC	Not Calculated
ND	Not detected at the reporting limit (or MDL or EDL if shown)
PQL	Practical Quantitation Limit
QC	Quality Control
RER	Relative error ratio
RL	Reporting Limit or Requested Limit (Radiochemistry)
RPD	Relative Percent Difference, a measure of the relative difference between two points
TEF	Toxicity Equivalent Factor (Dioxin)
TEQ	Toxicity Equivalent Quotient (Dioxin)

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Client Sample Results

Client: **Sangre De Cristo Sciences, LLC**
 Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
 SDG: (b)(6)

Client Sample ID: Property River Water

Lab Sample ID: 490-98227-1

Date Collected: 02/24/16 09:00

Matrix: Water

Date Received: 02/26/16 10:00

Method: 6010C - Metals (ICP)

Analyte	Result	Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
Aluminum	1.48		0.100		mg/L		03/02/16 18:32	03/04/16 19:29	1
Arsenic	ND		0.0100		mg/L		03/02/16 18:32	03/04/16 19:29	1
Barium	0.119		0.0100		mg/L		03/02/16 18:32	03/04/16 19:29	1
Cadmium	ND		0.00100		mg/L		03/02/16 18:32	03/04/16 19:29	1
Chromium	ND	^	0.00500		mg/L		03/02/16 18:32	03/04/16 19:29	1
Lead	0.00560		0.00500		mg/L		03/02/16 18:32	03/04/16 19:29	1
Manganese	0.152		0.0150		mg/L		03/02/16 18:32	03/06/16 20:14	1
Nickel	ND		0.0100		mg/L		03/02/16 18:32	03/04/16 19:29	1
Silver	ND	^	0.00500		mg/L		03/02/16 18:32	03/04/16 19:29	1
Zinc	0.0821		0.0500		mg/L		03/02/16 18:32	03/04/16 19:29	1

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Client Sample Results

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Client Sample ID: Soil-Property

Date Collected: 02/24/16 09:00

Date Received: 02/26/16 10:00

Lab Sample ID: 490-98227-2

Matrix: Solid

Method: 6010C - Metals (ICP)

Analyte	Result	Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
Aluminum	25700		19.1		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Arsenic	5.07		1.91		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Barium	241		1.91		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Cadmium	ND		0.956		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Chromium	12.9		0.956		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Lead	75.2		0.956		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Manganese	597		2.87		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Nickel	9.20		1.91		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Silver	ND		0.956		mg/Kg		02/29/16 10:07	02/29/16 15:35	1
Zinc	414		9.56		mg/Kg		02/29/16 10:07	02/29/16 15:35	1

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TestAmerica Nashville

QC Sample Results

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Method: 6010C - Metals (ICP)

Lab Sample ID: MB 490-320550/1-A
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Method Blank
Prep Type: Total/NA
Prep Batch: 320550

Analyte	MB	MB	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
	Result	Qualifier							
Aluminum	ND		19.8		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Arsenic	ND		1.98		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Barium	ND		1.98		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Cadmium	ND		0.988		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Chromium	ND		0.988		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Lead	ND		0.988		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Manganese	ND		2.96		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Nickel	ND		1.98		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Silver	ND		0.988		mg/Kg		02/29/16 10:07	02/29/16 13:42	1
Zinc	ND		9.88		mg/Kg		02/29/16 10:07	02/29/16 13:42	1

Lab Sample ID: LCS 490-320550/25-A
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Lab Control Sample
Prep Type: Total/NA
Prep Batch: 320550

Analyte	Spike	LCS	LCS	Unit	D	%Rec	Limits
	Added	Result	Qualifier				
Silver	19.8	18.56		mg/Kg		94	80 - 120

Lab Sample ID: LCS 490-320550/2-A
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Lab Control Sample
Prep Type: Total/NA
Prep Batch: 320550

Analyte	Spike	LCS	LCS	Unit	D	%Rec	Limits
	Added	Result	Qualifier				
Aluminum	798	775.4		mg/Kg		97	80 - 120
Arsenic	20.0	18.78		mg/Kg		94	80 - 120
Barium	798	785.8		mg/Kg		98	80 - 120
Cadmium	20.0	19.74		mg/Kg		99	80 - 120
Chromium	79.8	77.98		mg/Kg		98	80 - 120
Lead	20.0	20.76		mg/Kg		104	80 - 120
Manganese	200	204.6		mg/Kg		102	80 - 120
Nickel	200	199.6		mg/Kg		100	80 - 120
Zinc	200	190.4		mg/Kg		95	80 - 120

Lab Sample ID: LCSD 490-320550/26-A
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Lab Control Sample Dup
Prep Type: Total/NA
Prep Batch: 320550

Analyte	Spike	LCSD	LCSD	Unit	D	%Rec	Limits	RPD	Limit
	Added	Result	Qualifier						
Silver	19.9	18.25		mg/Kg		92	80 - 120	2	20

Lab Sample ID: LCSD 490-320550/3-A
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Lab Control Sample Dup
Prep Type: Total/NA
Prep Batch: 320550

Analyte	Spike	LCSD	LCSD	Unit	D	%Rec	Limits	RPD	Limit
	Added	Result	Qualifier						
Aluminum	795	789.9		mg/Kg		99	80 - 120	2	20
Arsenic	19.9	19.24		mg/Kg		97	80 - 120	2	20
Barium	795	786.9		mg/Kg		99	80 - 120	0	20
Cadmium	19.9	19.88		mg/Kg		100	80 - 120	1	20

TestAmerica Nashville

QC Sample Results

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Method: 6010C - Metals (ICP) (Continued)

Lab Sample ID: LCSD 490-320550/3-A
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Lab Control Sample Dup
Prep Type: Total/NA
Prep Batch: 320550

Analyte	Spike Added	LCSD Result	LCSD Qualifier	Unit	D	%Rec	%Rec. Limits	RPD	Limit
Chromium	79.5	78.37		mg/Kg		99	80 - 120	0	20
Lead	19.9	20.83		mg/Kg		105	80 - 120	0	20
Manganese	199	205.6		mg/Kg		103	80 - 120	0	20
Nickel	199	200.4		mg/Kg		101	80 - 120	0	20
Zinc	199	192.9		mg/Kg		97	80 - 120	1	20

Lab Sample ID: 490-98309-A-1-B MS
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Matrix Spike
Prep Type: Total/NA
Prep Batch: 320550

Analyte	Sample Result	Sample Qualifier	Spike Added	MS Result	MS Qualifier	Unit	D	%Rec	%Rec. Limits
Aluminum	2320	F1	802	3878	F1	mg/Kg		194	75 - 125
Arsenic	ND		20.0	18.76		mg/Kg		94	75 - 125
Barium	6.34		802	784.2		mg/Kg		97	75 - 125
Cadmium	ND		20.0	19.46		mg/Kg		97	75 - 125
Chromium	2.72		80.2	79.62		mg/Kg		96	75 - 125
Lead	3.15		20.0	23.33		mg/Kg		101	75 - 125
Manganese	11.8		200	215.6		mg/Kg		102	75 - 125
Nickel	ND		200	196.5		mg/Kg		98	75 - 125
Silver	ND		20.0	17.62		mg/Kg		88	75 - 125
Zinc	ND		200	190.7		mg/Kg		95	75 - 125

Lab Sample ID: 490-98309-A-1-C MSD
Matrix: Solid
Analysis Batch: 320767

Client Sample ID: Matrix Spike Duplicate
Prep Type: Total/NA
Prep Batch: 320550

Analyte	Sample Result	Sample Qualifier	Spike Added	MSD Result	MSD Qualifier	Unit	D	%Rec	%Rec. Limits	RPD	Limit
Aluminum	2320	F1	789	4245	F1	mg/Kg		244	75 - 125	9	20
Arsenic	ND		19.7	18.50		mg/Kg		94	75 - 125	1	20
Barium	6.34		789	770.8		mg/Kg		97	75 - 125	2	20
Cadmium	ND		19.7	19.09		mg/Kg		97	75 - 125	2	20
Chromium	2.72		78.9	78.99		mg/Kg		97	75 - 125	1	20
Lead	3.15		19.7	22.72		mg/Kg		99	75 - 125	3	20
Manganese	11.8		197	212.4		mg/Kg		102	75 - 125	1	20
Nickel	ND		197	193.4		mg/Kg		98	75 - 125	2	20
Silver	ND		19.7	17.40		mg/Kg		88	75 - 125	1	20
Zinc	ND		197	186.7		mg/Kg		95	75 - 125	2	20

Lab Sample ID: MB 490-321314/1-A
Matrix: Water
Analysis Batch: 322041

Client Sample ID: Method Blank
Prep Type: Total/NA
Prep Batch: 321314

Analyte	MB Result	MB Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
Aluminum	ND		0.100		mg/L		03/02/16 18:32	03/04/16 17:19	1
Arsenic	ND		0.0100		mg/L		03/02/16 18:32	03/04/16 17:19	1
Barium	ND		0.0100		mg/L		03/02/16 18:32	03/04/16 17:19	1
Cadmium	ND		0.00100		mg/L		03/02/16 18:32	03/04/16 17:19	1
Chromium	ND		0.00500		mg/L		03/02/16 18:32	03/04/16 17:19	1
Lead	ND		0.00500		mg/L		03/02/16 18:32	03/04/16 17:19	1

TestAmerica Nashville

QC Sample Results

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Method: 6010C - Metals (ICP) (Continued)

Lab Sample ID: MB 490-321314/1-A
Matrix: Water
Analysis Batch: 322041

Client Sample ID: Method Blank
Prep Type: Total/NA
Prep Batch: 321314

Analyte	MB Result	MB Qualifier	RL	MDL	Unit	D	Prepared	Analyzed	Dil Fac
Manganese	ND		0.0150		mg/L		03/02/16 18:32	03/04/16 17:19	1
Nickel	ND		0.0100		mg/L		03/02/16 18:32	03/04/16 17:19	1
Silver	ND		0.00500		mg/L		03/02/16 18:32	03/04/16 17:19	1
Zinc	ND		0.0500		mg/L		03/02/16 18:32	03/04/16 17:19	1

Lab Sample ID: LCS 490-321314/25-A
Matrix: Water
Analysis Batch: 322041

Client Sample ID: Lab Control Sample
Prep Type: Total/NA
Prep Batch: 321314
%Rec.

Analyte	Spike Added	LCS Result	LCS Qualifier	Unit	D	%Rec	Limits
Silver	0.0500	0.05040		mg/L		101	80 - 120

Lab Sample ID: LCS 490-321314/2-A
Matrix: Water
Analysis Batch: 322041

Client Sample ID: Lab Control Sample
Prep Type: Total/NA
Prep Batch: 321314
%Rec.

Analyte	Spike Added	LCS Result	LCS Qualifier	Unit	D	%Rec	Limits
Aluminum	2.00	1.895		mg/L		95	80 - 120
Arsenic	0.0500	0.04450		mg/L		89	80 - 120
Barium	2.00	1.985		mg/L		99	80 - 120
Cadmium	0.0500	0.04700		mg/L		94	80 - 120
Chromium	0.200	0.1961		mg/L		98	80 - 120
Lead	0.0500	0.05180		mg/L		104	80 - 120
Manganese	0.500	0.4941		mg/L		99	80 - 120
Nickel	0.500	0.5008		mg/L		100	80 - 120
Zinc	0.500	0.4767		mg/L		95	80 - 120

Lab Sample ID: 490-98349-D-1-B MS
Matrix: Water
Analysis Batch: 322041

Client Sample ID: Matrix Spike
Prep Type: Total/NA
Prep Batch: 321314
%Rec.

Analyte	Sample Result	Sample Qualifier	Spike Added	MS Result	MS Qualifier	Unit	D	%Rec	Limits
Aluminum	19.8		2.00	36.14	4	mg/L		818	75 - 125
Arsenic	0.0227	F1	0.0500	0.05860	F1	mg/L		72	75 - 125
Barium	0.200		2.00	1.780		mg/L		79	75 - 125
Cadmium	0.00310	F1	0.0500	0.04010	F1	mg/L		74	75 - 125
Chromium	0.0282		0.200	0.1790		mg/L		75	75 - 125
Lead	0.0604		0.0500	0.1007		mg/L		81	75 - 125
Manganese	4.29		0.500	4.591	4	mg/L		60	75 - 125
Nickel	0.0806		0.500	0.4734		mg/L		79	75 - 125
Silver	ND	F1	0.0500	0.01290	F1	mg/L		26	75 - 125
Zinc	0.138		0.500	0.5357		mg/L		80	75 - 125

Lab Sample ID: 490-98349-D-1-C MSD
Matrix: Water
Analysis Batch: 322041

Client Sample ID: Matrix Spike Duplicate
Prep Type: Total/NA
Prep Batch: 321314
%Rec.

Analyte	Sample Result	Sample Qualifier	Spike Added	MSD Result	MSD Qualifier	Unit	D	%Rec	Limits	RPD	Limit
Aluminum	19.8		2.00	35.98	4	mg/L		810	75 - 125	0	20

TestAmerica Nashville

QC Sample Results

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Method: 6010C - Metals (ICP) (Continued)

Lab Sample ID: 490-98349-D-1-C MSD

Matrix: Water

Analysis Batch: 322041

Client Sample ID: Matrix Spike Duplicate

Prep Type: Total/NA

Prep Batch: 321314

Analyte	Sample Result	Sample Qualifier	Spike Added	MSD Result	MSD Qualifier	Unit	D	%Rec	%Rec. Limits	RPD	RPD Limit
Arsenic	0.0227	F1	0.0500	0.05890	F1	mg/L		72	75 - 125	1	20
Barium	0.200		2.00	1.738		mg/L		77	75 - 125	2	20
Cadmium	0.00310	F1	0.0500	0.03880	F1	mg/L		71	75 - 125	3	20
Chromium	0.0282		0.200	0.1774		mg/L		75	75 - 125	1	20
Lead	0.0604		0.0500	0.1020		mg/L		83	75 - 125	1	20
Manganese	4.29		0.500	4.813	4	mg/L		105	75 - 125	5	20
Nickel	0.0806		0.500	0.4645		mg/L		77	75 - 125	2	20
Silver	ND	F1	0.0500	0.01240	F1	mg/L		25	75 - 125	4	20
Zinc	0.138		0.500	0.5344		mg/L		79	75 - 125	0	20

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TestAmerica Nashville

QC Association Summary

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Metals

Prep Batch: 320550

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
490-98227-2	Soil-Property	Total/NA	Solid	3051A	
490-98309-A-1-B MS	Matrix Spike	Total/NA	Solid	3051A	
490-98309-A-1-C MSD	Matrix Spike Duplicate	Total/NA	Solid	3051A	
LCS 490-320550/25-A	Lab Control Sample	Total/NA	Solid	3051A	
LCS 490-320550/2-A	Lab Control Sample	Total/NA	Solid	3051A	
LCSD 490-320550/26-A	Lab Control Sample Dup	Total/NA	Solid	3051A	
LCSD 490-320550/3-A	Lab Control Sample Dup	Total/NA	Solid	3051A	
MB 490-320550/1-A	Method Blank	Total/NA	Solid	3051A	

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Analysis Batch: 320767

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
490-98227-2	Soil-Property	Total/NA	Solid	6010C	320550
490-98309-A-1-B MS	Matrix Spike	Total/NA	Solid	6010C	320550
490-98309-A-1-C MSD	Matrix Spike Duplicate	Total/NA	Solid	6010C	320550
LCS 490-320550/25-A	Lab Control Sample	Total/NA	Solid	6010C	320550
LCS 490-320550/2-A	Lab Control Sample	Total/NA	Solid	6010C	320550
LCSD 490-320550/26-A	Lab Control Sample Dup	Total/NA	Solid	6010C	320550
LCSD 490-320550/3-A	Lab Control Sample Dup	Total/NA	Solid	6010C	320550
MB 490-320550/1-A	Method Blank	Total/NA	Solid	6010C	320550

Prep Batch: 321314

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
490-98227-1	Property River Water	Total/NA	Water	3010A	
490-98349-D-1-B MS	Matrix Spike	Total/NA	Water	3010A	
490-98349-D-1-C MSD	Matrix Spike Duplicate	Total/NA	Water	3010A	
LCS 490-321314/25-A	Lab Control Sample	Total/NA	Water	3010A	
LCS 490-321314/2-A	Lab Control Sample	Total/NA	Water	3010A	
MB 490-321314/1-A	Method Blank	Total/NA	Water	3010A	

Analysis Batch: 322041

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
490-98227-1	Property River Water	Total/NA	Water	6010C	321314
490-98349-D-1-B MS	Matrix Spike	Total/NA	Water	6010C	321314
490-98349-D-1-C MSD	Matrix Spike Duplicate	Total/NA	Water	6010C	321314
LCS 490-321314/25-A	Lab Control Sample	Total/NA	Water	6010C	321314
LCS 490-321314/2-A	Lab Control Sample	Total/NA	Water	6010C	321314
MB 490-321314/1-A	Method Blank	Total/NA	Water	6010C	321314

Analysis Batch: 322066

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
490-98227-1	Property River Water	Total/NA	Water	6010C	321314

TestAmerica Nashville

Lab Chronicle

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Client Sample ID: Property River Water

Lab Sample ID: 490-98227-1

Date Collected: 02/24/16 09:00

Matrix: Water

Date Received: 02/26/16 10:00

Prep Type	Batch Type	Batch Method	Run	Dil Factor	Initial Amount	Final Amount	Batch Number	Prepared or Analyzed	Analyst	Lab
Total/NA	Prep	3010A			50 mL	50 mL	321314	03/02/16 18:32	KMS	TAL NSH
Total/NA	Analysis	6010C		1	50 mL	50 mL	322041	03/04/16 19:29	TSC	TAL NSH
Total/NA	Prep	3010A			50 mL	50 mL	321314	03/02/16 18:32	KMS	TAL NSH
Total/NA	Analysis	6010C		1	50 mL	50 mL	322066	03/06/16 20:14	TSC	TAL NSH

Client Sample ID: Soil-Property

Lab Sample ID: 490-98227-2

Date Collected: 02/24/16 09:00

Matrix: Solid

Date Received: 02/26/16 10:00

Prep Type	Batch Type	Batch Method	Run	Dil Factor	Initial Amount	Final Amount	Batch Number	Prepared or Analyzed	Analyst	Lab
Total/NA	Prep	3051A			0.523 g	100 mL	320550	02/29/16 10:07	ZLN	TAL NSH
Total/NA	Analysis	6010C		1	0.523 g	100 mL	320767	02/29/16 15:35	BLG	TAL NSH

Laboratory References:

TAL NSH = TestAmerica Nashville, 2960 Foster Creighton Drive, Nashville, TN 37204, TEL (615)726-0177

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Method Summary

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG (b)(6)

Method	Method Description	Protocol	Laboratory
6010C	Metals (ICP)	SW846	TAL NSH

Protocol References:

SW846 = "Test Methods For Evaluating Solid Waste, Physical/Chemical Methods", Third Edition, November 1986 And Its Updates.

Laboratory References:

TAL NSH = TestAmerica Nashville, 2960 Foster Creighton Drive, Nashville, TN 37204, TEL (615)726-0177



Certification Summary

Client: Sangre De Cristo Sciences, LLC
Project/Site: Animas River Mining Spill

TestAmerica Job ID: 490-98227-1
SDG: (b)(6)

Laboratory: TestAmerica Nashville

All certifications held by this laboratory are listed. Not all certifications are applicable to this report.

Authority	Program	EPA Region	Certification ID	Expiration Date
A2LA	A2LA		NA: NELAP & A2LA	06-30-16
A2LA	ISO/IEC 17025		0453.07	03-31-16 *
Alaska (UST)	State Program	10	UST-087	07-24-16
Arizona	State Program	9	AZ0473	05-05-16
Arkansas DEQ	State Program	6	88-0737	04-25-16
California	State Program	9	2938	10-31-16
Connecticut	State Program	1	PH-0220	12-31-17
Florida	NELAP	4	E87358	06-30-16
Georgia	State Program	4	N/A	06-30-16
Illinois	NELAP	5	200010	12-09-16
Iowa	State Program	7	131	04-01-16 *
Kansas	NELAP	7	E-10229	05-31-16
Kentucky (UST)	State Program	4	19	06-30-16
Kentucky (WW)	State Program	4	90038	12-31-16
Louisiana	NELAP	6	30613	06-30-16
Maine	State Program	1	TN00032	11-03-17
Maryland	State Program	3	316	03-31-17
Massachusetts	State Program	1	M-TN032	06-30-16
Minnesota	NELAP	5	047-999-345	12-31-16
Mississippi	State Program	4	N/A	06-30-16
Montana (UST)	State Program	8	NA	02-24-20
Nevada	State Program	9	TN00032	07-31-16
New Hampshire	NELAP	1	2963	10-09-16
New Jersey	NELAP	2	TN965	06-30-16
New York	NELAP	2	11342	03-31-16
North Carolina (WW/SW)	State Program	4	387	12-31-16
North Dakota	State Program	8	R-146	06-30-16
Ohio VAP	State Program	5	CL0033	07-10-17
Oklahoma	State Program	6	9412	08-31-16
Oregon	NELAP	10	TN200001	04-27-16
Pennsylvania	NELAP	3	68-00585	06-30-16
Rhode Island	State Program	1	LAO00268	12-30-15 *
South Carolina	State Program	4	84009 (001)	02-28-16 *
South Carolina (Do Not Use - DW)	State Program	4	84009 (002)	12-16-17
Tennessee	State Program	4	2008	02-23-17
Texas	NELAP	6	T104704077	08-31-16
USDA	Federal		S-48469	10-30-16
Utah	NELAP	8	TN00032	07-31-16
Virginia	NELAP	3	460152	06-14-16
Washington	State Program	10	C789	07-19-16
West Virginia DEP	State Program	3	219	02-28-17
Wisconsin	State Program	5	998020430	08-31-16
Wyoming (UST)	A2LA	8	453.07	03-31-16 *

* Certification renewal pending - certification considered valid.

TestAmerica Nashville

COOLER RECEIPT FORM



Cooler Received/Opened On 2/26/2016 @ 1000

Time Samples Removed From Cooler 1400 Time Samples Placed In Storage 1545 (2 Hour Window)

1. Tracking # 9505 (last 4 digits, FedEx) Courier: FedEx

IR Gun ID 12080142 pH Strip Lot HC559158 Chlorine Strip Lot 072815A

2. Temperature of rep. sample or temp blank when opened: 4.9 Degrees Celsius

3. If Item #2 temperature is 0°C or less, was the representative sample or temp blank frozen? YES NO NA

4. Were custody seals on outside of cooler? YES...NO...NA

If yes, how many and where: 1 (Front)

5. Were the seals intact, signed, and dated correctly? YES...NO...NA

6. Were custody papers inside cooler? YES...NO...NA

I certify that I opened the cooler and answered questions 1-6 (initial) GC

7. Were custody seals on containers: YES NO and Intact YES...NO...NA

Were these signed and dated correctly? YES...NO...NA

8. Packing mat'l used? Bubblewrap Plastic bag Peanuts Vermiculite Foam Insert Paper Other None

9. Cooling process: Ice Ice-pack Ice (direct contact) Dry ice Other None

10. Did all containers arrive in good condition (unbroken)? YES...NO...NA

11. Were all container labels complete (#, date, signed, pres., etc)? YES...NO...NA

12. Did all container labels and tags agree with custody papers? YES...NO...NA

13a. Were VOA vials received? YES...NO...NA

b. Was there any observable headspace present in any VOA vial? YES...NO...NA

14. Was there a Trip Blank in this cooler? YES...NO...NA If multiple coolers, sequence # mmc 2/26/16

I certify that I unloaded the cooler and answered questions 7-14 (initial) mmc

15a. On pres'd bottles, did pH test strips suggest preservation reached the correct pH level? YES...NO...NA

b. Did the bottle labels indicate that the correct preservatives were used YES...NO...NA

16. Was residual chlorine present? YES...NO...NA

I certify that I checked for chlorine and pH as per SOP and answered questions 15-16 (initial) mmc

17. Were custody papers properly filled out (ink, signed, etc)? YES...NO...NA

18. Did you sign the custody papers in the appropriate place? YES...NO...NA

19. Were correct containers used for the analysis requested? YES...NO...NA

20. Was sufficient amount of sample sent in each container? YES...NO...NA

I certify that I entered this project into LIMS and answered questions 17-20 (initial) mmc

I certify that I attached a label with the unique LIMS number to each container (initial) mmc

21. Were there Non-Conformance issues at login? YES...NO...NA Was a NCM generated? YES...NO...NA #

Regulatory Program: ☒ DW ☐ NPDES ☐ RCRA ☒ Other:

TestAmerica Laboratories, Inc.

Client Contact		Project Manager: Elvin Chavez		Site Contact: Elvin Chavez		Date: _____		COC No: _____	
Sangre De Cristo Sciences, LLC		Tel/Fax: 505-615-5621		Lab Contact: Elvin Chavez		Carrier: _____		1 of 1 COCs	
105 2nd St. SE		Analysis Turnaround Time		Filtered Sample (Y/N) Perform MS / MSD (Y/N) As, Ba, Cd, Cr, Pb, Ni, Al, Zn, Mn, Ag				Sampler: JT For Lab Use Only: Walk-in Client: _____ Lab Sampling: _____ Job / SDG No.: _____ Sample Specific Notes: _____	
Rio Rancho, NM 87124		<input type="checkbox"/> CALENDAR DAYS <input checked="" type="checkbox"/> WORKING DAYS							
505-615-5621		TAT if different from Below _____							
505-994-0942		<input checked="" type="checkbox"/> 2 weeks <input type="checkbox"/> 1 week <input type="checkbox"/> 2 days <input type="checkbox"/> 1 day							
Project Name: Animas River Mining Spill		Sample Date		Sample Time		Sample Type (C=Comp, G=Grab)		# of Cont.	
Site: _____		Property River Water		2/24/2016 9:00 AM		G Water		1	
P O # _____		Soil - Property		"		G Soil		1	
<div style="display: flex; justify-content: space-between;"> Page 17 of 18 1 </div>									
Preservation Used: 1=Ice; 2=HCl; 3=H2SO4; 4=HNO3; 5=NaOH; 6=Other _____									
Possible Hazard Identification: Are any samples from a listed EPA Hazardous Waste? Please List any EPA Waste Codes for the sample in the Comments Section if the lab is to dispose of the sample.					Sample Disposal (A fee may be assessed if samples are retained longer than 1 month)				
<input checked="" type="checkbox"/> Non-Hazard <input type="checkbox"/> Flammable <input type="checkbox"/> Skin Irritant <input type="checkbox"/> Poison B <input type="checkbox"/> Unknown					<input type="checkbox"/> Return to Client <input checked="" type="checkbox"/> Disposal by Lab <input type="checkbox"/> Archive for _____ Months				
Special Instructions/QC Requirements & Comments:									
Custody Seals Intact: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Custody Seal No.:		Cooler Temp. (°C): Obs'd: _____ Corr'd: _____		Therm ID No.:			
Relinquished by: Elvin J. Chavez		Company: Sangre De Cristo Sciences, LLC		Date/Time: 2/25/16 1300		Received by: <i>MW</i>		Company: TAN	
Relinquished by: _____		Company: _____		Date/Time: _____		Received by: _____		Company: _____	
Relinquished by: _____		Company: _____		Date/Time: _____		Received in Laboratory by: _____		Company: _____	

Login Sample Receipt Checklist

Client: Sangre De Cristo Sciences, LLC

Job Number: 490-98227-1

SDG Number: (b)(6)

Login Number: 98227

List Number: 1

List Source: TestAmerica Nashville

Creator: Ramos, Martina M

Question	Answer	Comment
Radioactivity wasn't checked or is \leq background as measured by a survey meter.	True	
The cooler's custody seal, if present, is intact.	True	
Sample custody seals, if present, are intact.	True	
The cooler or samples do not appear to have been compromised or tampered with.	True	
Samples were received on ice.	True	
Cooler Temperature is acceptable.	True	
Cooler Temperature is recorded.	True	
COC is present.	True	
COC is filled out in ink and legible.	True	
COC is filled out with all pertinent information.	True	
Is the Field Sampler's name present on COC?	True	
There are no discrepancies between the containers received and the COC.	True	
Samples are received within Holding Time (excluding tests with immediate HTs)	True	
Sample containers have legible labels.	True	
Containers are not broken or leaking.	True	
Sample collection date/times are provided.	True	
Appropriate sample containers are used.	True	
Sample bottles are completely filled.	True	
Sample Preservation Verified.	N/A	
There is sufficient vol. for all requested analyses, incl. any requested MS/MSDs	True	
Containers requiring zero headspace have no headspace or bubble is $<6\text{mm}$ (1/4").	N/A	
Multiphasic samples are not present.	True	
Samples do not require splitting or compositing.	True	
Residual Chlorine Checked.	N/A	

13

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Environmental Protection Agency, Kenneth A. Redden
Claims Office, US EPA Office of the General Counsel
1200 Pennsylvania Avenue, NW (MC2399)
VIA Email Only: R8_GKM_Claims@epa.gov

2. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.

(b)(6)

3. TYPE OF EMPLOYMENT

(b)(6)

4. DATE OF BIRTH

(b)(6)

5. MARITAL STATUS

(b)(6)

6. DATE AND DAY OF ACCIDENT

August 5

2015

7. TIME (A.M. OR P.M.)

11:00 am

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED
(See instructions on reverse side).

(b)(6)

- Damaged soil, three (3) damaged wells, plumbing system

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

(b)(6)

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

\$50,000,000.00

12b. PERSONAL INJURY

\$50,000,000.00

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause forfeiture of your rights).

100,000,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

(b)(6)

13b. PHONE NUMBER OF PERSON SIGNING FORM

(b)(6)

14. DATE OF SIGNATURE

04/22/2016

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

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The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

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ATTACHMENT A
TO STANDARD FORM 95 FOR (b)(6)

EXHIBIT 1:
NEGLIGENCE OF THE UNITED STATES OF AMERICA (BASIS OF ALL CLAIMS)

The Gold King Mine is an abandoned and inactive hardrock mine located in the Upper Animas Watershed near Silverton, Colorado. Mines such as the Gold King Mine discharge acid rock/mine drainage. Acid rock/mine drainage results when water reacts with iron disulfide (pyrite or “fool’s gold”) and oxygen to form sulfuric acid. The resulting acid water dissolves naturally occurring heavy metals such as lead, zinc, copper, cadmium, and aluminum and causes water containing these heavy metals to flow from the mine’s adits (opening or passages leading into a mine used for access or drainage).

When mining operations at the Gold King Mine ceased, it was left discharging contaminated water into the Cement Creek drainage of the Animas River watershed; the discharge has been a significant contributor of manganese, copper, zinc, and cadmium into the Animas River watershed¹. This measurement resulted in a flow volume of 3,043,067 gallons discharged from the Gold King Mine.

Maintenance on the Gold King Mine ceased in 1991 and it has been inaccessible since 1995 when the Mine’s portal collapsed. Previous mine leaks had occurred, with the most significant being in 1975 when 50,000 tons of heavy metals were released into the upper Animas². These conditions caused impounding of water behind the collapse. As a result, water pressure built up and significantly increased the likelihood of a blow-out of the blockages; such a blow-out would cause a release of large volumes of contaminated mine waters and sediment from inside the mine, which contains concentrated heavy metals.

As early as the 1990s, the U.S. Environmental Protection Agency (hereinafter “EPA”) knew the conditions at the Gold King Mine presented an endangerment to human health and the environment. In the 1990s, the EPA conducted a Superfund Site Assessment³ of the area. The assessment showed that water quality standards were not achieved in the Animas River near Silverton and identified severe impacts to aquatic life in the Upper Animas. Nonetheless, the EPA agreed to postpone adding the site to the Superfund National Priorities List (hereinafter “NPL”). Again in 2008, the EPA’s Superfund Site Assessment program investigated Upper Cement Creek for purposes of determining if the area would qualify for inclusion on the Superfund NPL. The investigation revealed that for at least twenty (20) miles below the confluence with Cement Creek, the water quality had significantly declined. Impacts to aquatic life were also demonstrated by fish population surveys which found no fish in the Animas River below Cement Creek for

¹ See EPA Fact Sheet: “How Did the August 2015 Release from the Gold King Mine Happen?” <https://www.epa.gov/goldkingmine> (last visited April 13, 2016).

² See “Gold King Mine Watershed Fact Sheet,” <https://www.epa.gov/sites/production/files/2015-08/documents/goldkingminewatershedfactsheetbackground.pdf> (last visited April 13, 2016).

³ Superfund is the name given to the environmental program established to address abandoned and hazardous waste sites. Superfund allows the EPA to clean up such sites and to compel responsible parties to perform cleanups or reimburse the government for EPA-lead cleanups. The Superfund cleanup process involves assessment of the subject site, placement of the site on the National Priorities List, and establishment and implementation of appropriate cleanup plans. See <http://www.epa.gov/superfund/about.htm>.

approximately two (2) miles and precipitous declines in fish populations as far as twenty (20) miles downstream. While the EPA determined that the area would likely qualify for placement on the Superfund NPL, the EPA nonetheless again failed to include the area on the NPL⁴.

It was not until 2014 that the EPA contracted with Environmental Restoration, LLC⁵ to de-water the Mine and remove blockages to prevent any danger of blow-outs. Upon information and belief, the EPA also hired Weston Solutions, Inc. to provide environmental cleanup services at the Gold King Mine.

Upon information and belief, nearly a year was spent preparing the site for excavation. In August 2015, the EPA, acting through its contracted entities ENVIRONMENTAL RESTORATION, LLC, WESTON SOLUTIONS, INC., and WESTON SOLUTIONS HOLDINGS, INC., ultimately located a collapsed adit which had previously been plugged and began excavating the area in an effort to reopen the adit to assess mine conditions to characterize ongoing mine discharges and determine appropriate mine mitigation measures⁶.

Although proposed Defendants knew or should have known the Mine was full of contaminated water, Defendants continued excavating near the collapsed adit before taking necessary precautions to prevent a blow-out and before implementing other precautionary measures that could have mitigated any damage caused in the event of a blow-out⁷.

On the morning of August 5, 2015, while excavating directly above the known plug to the adit opening, Defendants breached an area above the collapsed adit, causing toxic mine waters to begin leaking from the rock face. Moments later, the hole from which the leak had started began to enlarge and mustard-colored toxic mine waters began pouring, unchecked, from the Mine. Video of the inept excavation, lack of proper planning, and general incompetence is widespread.⁸ The “Excavation Induced Failure” was preventable, obvious, and predictable.⁹ Had a drill rig been utilized to bore into the mine from above to determine the level of the mine pool (as had been done at the nearby Red and Bonita Mines) prior to excavating the plug, “the plan to open the mine would have been revised, and the blowout would not have occurred.”¹⁰

The breach caused the release of approximately three (3) million gallons of mine drainage to flow into Cement Creek, a tributary of the Animas River (“the Spill”). The mine waters contained heavy concentrations of toxic pollutants including, but not limited to: zinc, lead, cadmium, arsenic, and mercury¹¹.

⁴ See “Gold King Mine Watershed Fact Sheet,” <https://www.epa.gov/sites/production/files/2015-08/documents/goldkingminewatershedfactsheetbackground.pdf> (last visited April 13, 2016), a p. 2.

⁵ Environmental Restoration, LLC is a provider of hazardous wastes material management and removal services.

⁶ See “Technical Evaluation of Gold King Mine Incident,” <http://www.usbr.gov/docs/goldkingminereport.pdf>, a pp. 46, 66

⁷ *Id.*, at 47-61.

⁸ <https://www.youtube.com/watch?v=ZBIR05tDCbl>

⁹ See “Technical Evaluation of Gold King Mine Incident,” <http://www.usbr.gov/docs/goldkingminereport.pdf>, a p. 65.

¹⁰ *Id.* at 77.

¹¹ *Id.*

Although the Spill occurred at approximately 11:00 am on August 5, 2015, no local or state authorities were notified of the Mine spill for several hours¹². While Defendants knew about the high risk of a blow-out at the Gold King Mine site, and that any blow-out would have disastrous environmental effects, Defendants failed to maintain appropriate communication measures at the site for purposes of timely notifying proper authorities in the event a blow-out occurred. Although Colorado state and local authorities appear to have been notified of the Spill within the first 24 hours, the State of New Mexico, and other downstream jurisdictions, were not notified of the Mine Spill until the next day, more than 24 hours after the Spill occurred¹³.

Many people who live on or near the Animas River rely on the Animas River for irrigation, agricultural, and livestock purposes; the Animas River also serves as the exclusive source of potable water for many individuals with private wells. As a direct result of Defendants' failure to timely warn these individuals about the plume of toxic pollutants heading downriver, these individuals were unable to adequately prepare themselves and their property for what would be nearly a two-week deprivation of access to their previously safe supply of potable water. From August 6, 2015 through *at least* August 16, 2015, these individuals were deprived of access to their previously safe supply of potable water. Said individuals had to travel, sometimes great distances, to obtain access to safe, potable water to use for basis subsistence purposes such as drinking, cooking, and bathing.

Many river-related, recreation-based businesses similarly rely on having access to the Animas River. As the Animas River was laden with toxic pollutants from the Gold King Mine spill, the River was closed for recreational activity and numerous businesses suffered economically as a result. In addition to the foregoing, residents have suffered additional property damage in the form of diminution of value/ and or loss of use of property and stigma damages resulting from the taint of their property caused by the Mine Spill. News and images of the Mine spill were continuously and widely broadcast after the Spill. Photos of the Animas River running mustard-orange and news that the River was contaminated with toxic pollutants will have a negative, and long-lasting economic impact for individuals with property near or on the Animas River, as well as for tourism-related businesses.

As detailed above, the blow-out at the Gold King Mine and the resulting Spill of three (3) million gallons of toxic mine water into the Animas River were foreshadowed by knowledge about the dangerous conditions at the Mine as well as poor decision-making by Defendants as they failed to properly rehabilitate the Mine portal at issue and take necessary precautions to prevent a blow-out while excavating near an mine opening known to contain high volumes of toxic mine waters. Defendants also failed to implement any precautionary measures *prior to* excavating the site; the existence of such measures could have prevented or reduced any environmental contamination in the event of a blow-out.

Defendants similarly failed to mitigate damages caused by the blow-out and resulting Spill by failing to have precautionary measures in place in the event of a blow-out and by failing to have appropriate methods for effective communication in place for purposes of making notifications as

¹² Thomson, Jonathan, "When Our River Turned Orange: Nine Things You Need to Know About Animas River Mine Spill," August 9, 2015, <https://www.hcn.org/articles/when-our-river-turned-orange-animas-river-spill/>; See also Garrison, Kellogg, "EPA: Pollution from Mine Spill Much Worse Than Feared," *The Farmington Daily Times*, <http://www.usatoday.com/story/news/nation/2015/08/09/navajo-nation-epa-spill/31384515/>, Aug. 9, 2015.

¹³ See Reed, Miller, "Timeline of the Gold King Mine Spill," August 12, 2015, KOB 4 news, available at <http://www.kob.com/article/stories/s3877486.shtml#.Vw52SvkrK70>

quickly as possible after the Spill occurred. The Gold King Mine Spill resulting from Defendants' conduct, along with Defendants' delayed notifications after the Spill occurred, have caused and will continue to cause environmental damage to the Animas River and surrounding wildlife as well as personal injury and property damage to numerous individuals.

This form additionally places Defendants on notice that Plaintiff may seek, certification of a Class for the class-wide determination of common issues of law and/or fact relating to the liability of Defendants to the members of such a Class for actual, compensatory, and punitive damages for the personal injury and property damage Plaintiff and Class members have incurred as a result of Defendants' knowledge, conduct, acts, and omissions as set forth herein. Plaintiff may seek to maintain this action as a class action, and/or the class certification of particular issues herein, under Rule 1-023 NMRA, including, as appropriate, Rule 1-023(A)(1)-(4); (B)(1) and/or (B)(3); and (C)(4).

EXHIBIT 2: PROPERTY DAMAGE ON SPECIFIC CLAIM(S)

(b)(6) is a resident of Aztec, San Juan County, New Mexico. (b)(6) co-owns the property located at (b)(6) with his brother (b)(6) directly adjacent to the Animas River in northern New Mexico. Danny Booher moved to the property on September 27, 1997, and inherited the property from his now elderly mother (b)(6) his mother (who also lives on the property).

Prior to the mine spill, the (b)(6) residence and associated lots were valued at a total of \$750,000 with over \$100,000 in improvements to various areas of the property. The (b)(6) residence originally encompassed 11 total acres (two lots were sold off Frontage Road before the spill). The house itself, which is still in the (b)(6) family ownership, is on a 1.04 acre lot and estimated value of \$250,000. Since the mine disaster, the diminution in value to the property, and stigma damage associated, render the property valueless. The loss in property value, due to risks to health and ecosystem of the entire area, are compensable. Vegetation, gardening, and landscaping have also been affected on the property.

(b)(6) has three wells directly adjacent to the Animas, rendered inoperable after the Gold King mine spill in August 2015. Independent water quality testing of these wells have demonstrated the presence of highly elevated and dangerous levels of toxic heavy metals, including Zinc, Copper, Chromium, Cadmium, Arsenic, Manganese, and Iron (*See Sangre De Cristo Sciences, LLC water sampling taken 2/24/16, attached for all claims*). The dangerous and toxic heavy metals in the water continue, months after the river has resumed a normal color, from the bright orange appearance in August 2015. The additional factor of snow melt occurring in the Spring of 2016 is having an as-of-yet unknown effect on additional, slow releases of the contaminants previously identified.

The value of his 3 damaged wells is at least \$2500 (1991 cost of drilling) for a total of \$7500+, when adjusted for current inflation. His family's property currently encompasses 6.2 acres, and extends into the middle of the river. In addition to his well water, (b)(6) utilized water from the North Star Water Users Association, which pumped the water out of the river and filtered it before distribution to its members. The water for North Star comes out of the river 2 miles from where (b)(6) lives.

(b)(6) dishwasher was rendered inoperable, Frigidaire Gallery Series not functioning at all (\$532 new). His hot water heater was brand new but may need replacing in next

few months due to black residue buildup (still currently operating). Black residue is gathering in sinks, tubs, and laundry machines on the property (see attached photos). Cleaning the residue with on-site water only causes it to return and gather later. Similarly, the dishwasher is experiencing similar residue buildup, and leaves residue behind in all dishes cleaned from water on the property. Because of residue buildup in his clothing, left behind from his clothes washer, (b)(6) has since taken his entire wardrobe for thorough cleaning 10 miles away in town, and is considering disposal of other clothing. The (b)(6) are requesting help relocating from the property until the river water is safe to continue using for home, household, and other non-potable use.

Refrigerator filters needed changing almost monthly. Accumulation of residue in water lines and all pipes of house (unknown corrosive effects may cause long term damage to integrity of plumbing system).

EXHIBIT 3: PERSONAL INJURY CLAIMS

It is anticipated testing will show client is suffering from personal injuries, including, but not limited to, heavy metal poisoning and toxicity, and the effects of prolonged exposure to highly elevated levels of Aluminum, Arsenic, Barium, Chromium, Lead, Manganese, among other elements, in both his water and soil [See USEPA Safe Drinking Water Maximum Contaminant Levels (MCL) and actual findings from February 2016 sampling for (b)(6) at (b)(6) residence, a p. 5 of Report for February 2016 Quarterly Sampling Event Gold King Mine Spill Monitoring Project 2016. See also January 2016 water sampling of three pump house wells for (b)(6) at p. 6 of 17, Table of Corresponding findings]. The findings include continual, highly elevated levels of Aluminum [1.48 mg/L, with no more than .05 mg/L Maximum Contaminant Level (MCL) recommended by EPA], Manganese (.152 mg/L, with MCL at .05 mg/L), and Lead (.015 mg/L with .015 MCL). Soil samples at the (b)(6) residence also confirm highly elevated levels of Arsenic (5.07 mg/L with MCL .01 mg/L), Barium, Chromium, Lead, Zinc, Nickel, Aluminum, and Manganese. These samples taken in February of 2016 confirmed earlier samples from January 20, 2016, in the (b)(6) three wells, and are statistically significant findings.

(b)(6) had been using the water for bathing, laundry, and dishwashing, and has developed (b)(6) (b)(6) (b)(6)

(b)(6)

(b)(6)

(b)(6)

(b)(6)

These (b)(6) are consistent with what other neighbors have experienced after using the contaminated well water in various capacities (See (b)(6) Appendix of Report, and photo of dog tumor from (b)(6) and sores to dog). (b)(6)

(b)(6)

At the time of the spill, (b)(6) was experiencing (b)(6) and other types of (b)(6) similarly experienced by many of his neighbors, who were also exposed to the water. (b)(6)

(b)(6)

(b)(6)

has been reporting (b)(6)

(b)(6)

(b)(6)

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Environmental Protection Agency, Kenneth A. Redden
Claims Office, US EPA Office of the General Counsel
1200 Pennsylvania Avenue, NW (MC2399)
VIA Email Only: R8_GKM_Claims@epa.gov

2. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.

(b)(6)

3. TYPE OF EMPLOYMENT

(b)(6)

4. DATE OF BIRTH

(b)(6)

5. MARITAL STATUS

(b)(6)

6. DATE AND DAY OF ACCIDENT

August 5 2015

7. TIME (A.M. OR P.M.)

11:00 am

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED
(See instructions on reverse side).

(b)(6)

Damaged soil, plumbing system

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

(b)(6)

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

\$50,000,000.00

12b. PERSONAL INJURY

\$50,000,000.00

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause
forfeiture of your rights).

\$100,000,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

(b)(6) (See instructions on reverse side).

13b. PHONE NUMBER OF PERSON SIGNING FORM

(b)(6)

14. DATE OF SIGNATURE

04/22/2016

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

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If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

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CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Environmental Protection Agency, Kenneth A. Redden Claims Office, US EPA Office of the General Counsel 1200 Pennsylvania Avenue, NW (MC2399) VIA Email Only: R8_GKM_Claims@epa.gov			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6)		
3. TYPE OF EMPLOYMENT (b)(6)		4. DATE OF BIRTH (b)(6)	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT August 5 2015	
7. TIME (A.M. OR P.M.) 11:00 am					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). (b)(6)					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). (b)(6)					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. (b)(6)					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
(b)(6)		(b)(6)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY \$100,000,000.00		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). \$100,000,000.00	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). (b)(6)			13b. PHONE NUMBER OF PERSON SIGNING FORM (b)(6)		14. DATE OF SIGNATURE 04/22/2016
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

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Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

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If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

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**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Environmental Protection Agency, Kenneth A. Redden
Claims Office, US EPA Office of the General Counsel
1200 Pennsylvania Avenue, NW (MC2399)
VIA Email Only: R8_GKM_Claims@epa.gov

REC'D
MAY 02 20162. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.

(b)(6)

3. TYPE OF EMPLOYMENT

(b)(6)

4. DATE OF BIRTH

(b)(6)

5. MARITAL STATUS

(b)(6)

6. DATE AND DAY OF ACCIDENT

August 5

2015

7. TIME (A.M. OR P.M.)

11:00 am

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.

9.

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).

(b)(6)

Damaged well, damaged plumbing system, and damaged soil

10.

PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

(b)(6)

11.

WITNESSES

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

\$50,000,000.00

12b. PERSONAL INJURY

\$50,000,000.00

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause
forfeiture of your rights).

\$100,000,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

(b)(6)

13b. PHONE NUMBER OF PERSON SIGNING FORM

(b)(6)

14. DATE OF SIGNATURE

04/22/2016

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729)

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No 17. If deductible, state amount.

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CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008									
1. Submit to Appropriate Federal Agency: Environmental Protection Agency, Kenneth A. Redden Claims Office, US EPA Office of the General Counsel 1200 Pennsylvania Avenue, NW (MC2399) VIA Email Only: R8_GKM_Claims@epa.gov			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse) Number, Street, City, State and Zip code. (b)(6)										
3. TYPE OF EMPLOYMENT (b)(6)		4. DATE OF BIRTH (b)(6)	5. MARITAL STATUS (b)(6)	6. DATE AND DAY OF ACCIDENT August 5 2015									
7. TIME (A.M. OR P.M.) 11:00 am													
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.													
9. PROPERTY DAMAGE													
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BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). (b)(6) Damaged well, damaged plumbing system, and damaged soil													
10. PERSONAL INJURY/WRONGFUL DEATH													
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11. WITNESSES													
NAME		ADDRESS (Number, Street, City, State, and Zip Code)											
12. (See instructions on reverse). <div style="text-align: center;">AMOUNT OF CLAIM (in dollars)</div> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">12a. PROPERTY DAMAGE</td> <td style="width: 25%;">12b. PERSONAL INJURY</td> <td style="width: 25%;">12c. WRONGFUL DEATH</td> <td style="width: 25%;">12d. TOTAL (Failure to specify may cause forfeiture of your rights).</td> </tr> <tr> <td style="text-align: center;">\$50,000,000.00</td> <td style="text-align: center;">\$50,000,000.00</td> <td></td> <td style="text-align: center;">\$100,000,000.00</td> </tr> </table>						12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).	\$50,000,000.00	\$50,000,000.00		\$100,000,000.00
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(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

Environmental Protection Agency, Kenneth A. Redden
Claims Office, US EPA Office of the General Counsel
1200 Pennsylvania Avenue, NW (MC2399)
VIA Email Only: R8_GKM_Claims@epa.govREC'D
MAY 02 20162. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.

(b)(6)

3. TYPE OF EMPLOYMENT

(b)(6)

4. DATE OF BIRTH

(b)(6)

5. MARITAL STATUS

(b)(6)

6. DATE AND DAY OF ACCIDENT

August 5

2015

7. TIME (A.M. OR P.M.)

11:00 am

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

(b)(6)

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).

(b)(6)

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

(b)(6)

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

(b)(6)

(b)(6)

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

50,000,000

12b. PERSONAL INJURY

50,000,000

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause
forfeiture of your rights).

100,000,000

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

(b)(6)

13b. PHONE NUMBER OF PERSON SIGNING FORM

(b)(6)

14. DATE OF SIGNATURE

04/22/2016

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

**CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☒ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) _____

(b)(6)

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No 17. If deductible, state amount _____

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts). _____

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

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The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

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ATTACHMENT A
TO STANDARD FORM 95 FOR (b)(6)

EXHIBIT 1:
NEGLIGENCE OF THE UNITED STATES OF AMERICA (BASIS OF ALL CLAIMS)

The Gold King Mine is an abandoned and inactive hardrock mine located in the Upper Animas Watershed near Silverton, Colorado. Mines such as the Gold King Mine discharge acid rock/mine drainage. Acid rock/mine drainage results when water reacts with iron disulfide (pyrite or “fool’s gold”) and oxygen to form sulfuric acid. The resulting acid water dissolves naturally occurring heavy metals such as lead, zinc, copper, cadmium, and aluminum and causes water containing these heavy metals to flow from the mine’s adits (opening or passages leading into a mine used for access or drainage).

When mining operations at the Gold King Mine ceased, it was left discharging contaminated water into the Cement Creek drainage of the Animas River watershed; the discharge has been a significant contributor of manganese, copper, zinc, and cadmium into the Animas River watershed¹. This measurement resulted in a flow volume of 3,043,067 gallons discharged from the Gold King Mine.

Maintenance on the Gold King Mine ceased in 1991 and it has been inaccessible since 1995 when the Mine’s portal collapsed. Previous mine leaks had occurred, with the most significant being in 1975 when 50,000 tons of heavy metals were released into the upper Animas². These conditions caused impounding of water behind the collapse. As a result, water pressure built up and significantly increased the likelihood of a blow-out of the blockages; such a blow-out would cause a release of large volumes of contaminated mine waters and sediment from inside the mine, which contains concentrated heavy metals.

As early as the 1990s, the U.S. Environmental Protection Agency (hereinafter “EPA”) knew the conditions at the Gold King Mine presented an endangerment to human health and the environment. In the 1990s, the EPA conducted a Superfund Site Assessment³ of the area. The assessment showed that water quality standards were not achieved in the Animas River near Silverton and identified severe impacts to aquatic life in the Upper Animas. Nonetheless, the EPA agreed to postpone adding the site to the Superfund National Priorities List (hereinafter “NPL”). Again in 2008, the EPA’s Superfund Site Assessment program investigated Upper Cement Creek for purposes of determining if the area would qualify for inclusion on the Superfund NPL. The investigation revealed that for at least twenty (20) miles below the confluence with Cement Creek, the water quality had significantly declined. Impacts to aquatic life were also demonstrated by fish population surveys which found no fish in the Animas River below Cement Creek for

¹ See EPA Fact Sheet: “How Did the August 2015 Release from the Gold King Mine Happen?” <https://www.epa.gov/goldkingmine> (last visited April 13, 2016).

² See “Gold King Mine Watershed Fact Sheet,” <https://www.epa.gov/sites/production/files/2015-08/documents/goldkingminewatershedfactsheetbackground.pdf> (last visited April 13, 2016).

³ Superfund is the name given to the environmental program established to address abandoned and hazardous waste sites. Superfund allows the EPA to clean up such sites and to compel responsible parties to perform cleanups or reimburse the government for EPA-lead cleanups. The Superfund cleanup process involves assessment of the subject site, placement of the site on the National Priorities List, and establishment and implementation of appropriate cleanup plans. See <http://www.epa.gov/superfund/about.htm>.

approximately two (2) miles and precipitous declines in fish populations as far as twenty (20) miles downstream. While the EPA determined that the area would likely qualify for placement on the Superfund NPL, the EPA nonetheless again failed to include the area on the NPL⁴.

It was not until 2014 that the EPA contracted with Environmental Restoration, LLC⁵ to de-water the Mine and remove blockages to prevent any danger of blow-outs. Upon information and belief, the EPA also hired Weston Solutions, Inc. to provide environmental cleanup services at the Gold King Mine.

Upon information and belief, nearly a year was spent preparing the site for excavation. In August 2015, the EPA, acting through its contracted entities ENVIRONMENTAL RESTORATION, LLC, WESTON SOLUTIONS, INC., and WESTON SOLUTIONS HOLDINGS, INC., ultimately located a collapsed adit which had previously been plugged and began excavating the area in an effort to reopen the adit to assess mine conditions to characterize ongoing mine discharges and determine appropriate mine mitigation measures⁶.

Although proposed Defendants knew or should have known the Mine was full of contaminated water, Defendants continued excavating near the collapsed adit before taking necessary precautions to prevent a blow-out and before implementing other precautionary measures that could have mitigated any damage caused in the event of a blow-out⁷.

On the morning of August 5, 2015, while excavating directly above the known plug to the adit opening, Defendants breached an area above the collapsed adit, causing toxic mine waters to begin leaking from the rock face. Moments later, the hole from which the leak had started began to enlarge and mustard-colored toxic mine waters began pouring, unchecked, from the Mine. Video of the inept excavation, lack of proper planning, and general incompetence is widespread.⁸ The “Excavation Induced Failure” was preventable, obvious, and predictable.⁹ Had a drill rig been utilized to bore into the mine from above to determine the level of the mine pool (as had been done at the nearby Red and Bonita Mines) prior to excavating the plug, “the plan to open the mine would have been revised, and the blowout would not have occurred.”¹⁰

The breach caused the release of approximately three (3) million gallons of mine drainage to flow into Cement Creek, a tributary of the Animas River (“the Spill”). The mine waters contained heavy concentrations of toxic pollutants including, but not limited to: zinc, lead, cadmium, arsenic, and mercury¹¹.

⁴ See “Gold King Mine Watershed Fact Sheet,” <https://www.epa.gov/sites/production/files/2015-08/documents/goldkingminewatershedfactsheetbackground.pdf> (last visited April 13, 2016), a p. 2.

⁵ Environmental Restoration, LLC is a provider of hazardous wastes material management and removal services.

⁶ See “Technical Evaluation of Gold King Mine Incident,” <http://www.usbr.gov/docs/goldkingminereport.pdf>, a pp. 46, 66

⁷ *Id.*, at 47-61.

⁸ <https://www.youtube.com/watch?v=ZBIR05tDCbI>

⁹ See “Technical Evaluation of Gold King Mine Incident,” <http://www.usbr.gov/docs/goldkingminereport.pdf>, a p. 65.

¹⁰ *Id.* at 77.

¹¹ *Id.*

Although the Spill occurred at approximately 11:00 am on August 5, 2015, no local or state authorities were notified of the Mine spill for several hours¹². While Defendants knew about the high risk of a blow-out at the Gold King Mine site, and that any blow-out would have disastrous environmental effects, Defendants failed to maintain appropriate communication measures at the site for purposes of timely notifying proper authorities in the event a blow-out occurred. Although Colorado state and local authorities appear to have been notified of the Spill within the first 24 hours, the State of New Mexico, and other downstream jurisdictions, were not notified of the Mine Spill until the next day, more than 24 hours after the Spill occurred¹³.

Many people who live on or near the Animas River rely on the Animas River for irrigation, agricultural, and livestock purposes; the Animas River also serves as the exclusive source of potable water for many individuals with private wells. As a direct result of Defendants' failure to timely warn these individuals about the plume of toxic pollutants heading downriver, these individuals were unable to adequately prepare themselves and their property for what would be nearly a two-week deprivation of access to their previously safe supply of potable water. From August 6, 2015 through *at least* August 16, 2015, these individuals were deprived of access to their previously safe supply of potable water. Said individuals had to travel, sometimes great distances, to obtain access to safe, potable water to use for basis subsistence purposes such as drinking, cooking, and bathing.

Many river-related, recreation-based businesses similarly rely on having access to the Animas River. As the Animas River was laden with toxic pollutants from the Gold King Mine spill, the River was closed for recreational activity and numerous businesses suffered economically as a result. In addition to the foregoing, residents have suffered additional property damage in the form of diminution of value/ and or loss of use of property and stigma damages resulting from the taint of their property caused by the Mine Spill. News and images of the Mine spill were continuously and widely broadcast after the Spill. Photos of the Animas River running mustard-orange and news that the River was contaminated with toxic pollutants will have a negative, and long-lasting economic impact for individuals with property near or on the Animas River, as well as for tourism-related businesses.

As detailed above, the blow-out at the Gold King Mine and the resulting Spill of three (3) million gallons of toxic mine water into the Animas River were foreshadowed by knowledge about the dangerous conditions at the Mine as well as poor decision-making by Defendants as they failed to properly rehabilitate the Mine portal at issue and take necessary precautions to prevent a blow-out while excavating near an mine opening known to contain high volumes of toxic mine waters. Defendants also failed to implement any precautionary measures *prior to* excavating the site; the existence of such measures could have prevented or reduced any environmental contamination in the event of a blow-out.

Defendants similarly failed to mitigate damages caused by the blow-out and resulting Spill by failing to have precautionary measures in place in the event of a blow-out and by failing to have appropriate methods for effective communication in place for purposes of making notifications as

¹² Thomson, Jonathan, "When Our River Turned Orange: Nine Things You Need to Know About Animas River Mine Spill," August 9, 2015, <https://www.hcn.org/articles/when-our-river-turned-orange-animas-river-spill>; See also Garrison, Kellogg, "EPA: Pollution from Mine Spill Much Worse Than Feared," *The Farmington Daily Times*, <http://www.usatoday.com/story/news/nation/2015/08/09/navajo-nation-epa-spill/31384515/>, Aug. 9, 2015.

¹³ See Reed, Miller, "Timeline of the Gold King Mine Spill," August 12, 2015, KOB 4 news, available at <http://www.kob.com/article/stories/s3877486.shtml#.Vw52SvkrK70>

quickly as possible after the Spill occurred. The Gold King Mine Spill resulting from Defendants' conduct, along with Defendants' delayed notifications after the Spill occurred, have caused and will continue to cause environmental damage to the Animas River and surrounding wildlife as well as personal injury and property damage to numerous individuals.

This form additionally places Defendants on notice that Plaintiff may seek, certification of a Class for the class-wide determination of common issues of law and/or fact relating to the liability of Defendants to the members of such a Class for actual, compensatory, and punitive damages for the personal injury and property damage Plaintiff and Class members have incurred as a result of Defendants' knowledge, conduct, acts, and omissions as set forth herein. Plaintiff may seek to maintain this action as a class action, and/or the class certification of particular issues herein, under Rule 1-023 NMRA, including, as appropriate, Rule 1-023(A)(1)-(4); (B)(1) and/or (B)(3); and (C)(4).

EXHIBIT 2: PROPERTY DAMAGE ON SPECIFIC CLAIM(S)

(b)(6) are residents of Aztec, San Juan County, New Mexico. The (b)(6) own the property located at (b)(6) adjacent to the Animas River in northern New Mexico. They have been living on the property for 20 years and purchased their land for \$55,000. (b)(6) made improvements on the property, including a pump house and well, damaged and now made inoperable. (b)(6) built a 3000 square foot house including additions, estimated at \$250,000. Plaintiff (b)(6) suffered property damage and personal injury when roughly three (3) million gallons of contaminated water were released at Gold King Mine into Cement Creek. The mustard-colored plume of contaminated water, which contained heavy concentrations of toxic pollutants including, but not limited to, zinc, lead, cadmium, and mercury, ultimately flowed south into the Animas River. (b)(6) relied almost exclusively on water from the Animas River for all personal and property water needs. (b)(6) were denied access to their previously safe source of potable water as a result of the contamination and suffered personal injury and property damage as a result. The loss of value to the property and stigma damage are hard to evaluate at this time. Damage to the water heater and other appliances in the home from the toxic pollutants made their personal appliances unusable, including sinks and wash basins. The (b)(6) had three damaged water heaters were are all rendered unusable. Plaintiff had to spend \$8000 to connect to the Aztec city water supply and is nearly exhausted in resources due to the spill. As with all the claimants represented, the diminution in property values and stigma damage still need to be professionally assessed, but estimated to be a 75% to 100% loss to the property's former total value of over \$300,000.

In February of 2016, (b)(6) well water was sampled at 7.62 mg/L positive for Manganese contamination [EPA Maximum Contaminant (MCL) safe levels are at .05 mg/L]. See p. 5 of the included report. The (b)(6) water heater sampling also showed highly elevated levels of Barium, Cadmium, Chromium, Lead, Silver, Zinc, Nickel, and Aluminum, in addition to highly unsafe levels of Manganese.

The (b)(6) have several horses on his property and they will not drink the well water. They have been forced to haul water in for their livestock to drink.

**EXHIBIT 3:
PERSONAL INJURY CLAIMS**

(b)(6)



The EPA told him the levels of Manganese in his water are too high, per letter from EPA that he received a couple of weeks ago. (b)(6) has had his water tested over three times, including private tests run by the retained counsel. In September and October of 2015, (b)(6)

(b)(6)



¹⁴ Chronic exposure to excessive manganese levels can lead to a variety of psychiatric and motor disturbances, termed manganism. Generally, exposure to ambient manganese air concentrations in excess of 5 micrograms Mn/m³ can lead to Mn-induced symptoms. See Yin, Zhaobao; Jiang, Haiyan; Lee, Eun-Sook Y.; Ni, Mingwei; Erikson, Keith M.; Milatovic, Dejan; Bowman, Aaron B.; Aschner, Michael (2010). "Ferroportin is a manganese-responsive protein that decreases manganese cytotoxicity and accumulation" (PDF). *Journal of Neurochemistry* 112 (5): 1190–8. doi:10.1111/j.1471-4159.2009.06534.x.PMC 2819584. PMID 20002294.

¹⁵ In initial stages of manganism, neurological symptoms consist of reduced response speed, irritability, mood changes, and compulsive behaviors.^[4] Upon protracted exposure symptoms are more prominent and resemble those of idiopathic Parkinson's disease, as which it is often misdiagnosed, although there are particular differences in both the symptoms (nature of tremors, for example), response to drugs such as levodopa, and affected portion of the basal ganglia. Symptoms are also similar to Lou Gehrig's disease and multiple sclerosis. See Roth JA (2006). "Homeostatic

(b)(6) is also in the process of getting water to his property through the Cedar Hill Water Users Association. He owns the property described herein, but no longer feels safe brining his family to visit anywhere on the property:

(b)(6)



**CLAIM FOR DAMAGE,
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OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency.

Environmental Protection Agency, Kenneth A. Redden
Claims Office, US EPA Office of the General Counsel
1200 Pennsylvania Avenue, NW (MC2399)
VIA Email Only: R8_GKM_Claims@epa.gov

2. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.

(b)(6)

3. TYPE OF EMPLOYMENT

(b)(6)

4. DATE OF BIRTH

(b)(6)

5. MARITAL STATUS

(b)(6)

6. DATE AND DAY OF ACCIDENT

August 5

2015

7. TIME (A.M. OR P.M.)

11:00 am

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

(b)(6)

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).

(b)(6)

10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

(b)(6)

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

(b)(6)

(b)(6)

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause
forfeiture of your rights).

\$100,000,000.00

\$100,000,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

(b)(6)

13b. PHONE NUMBER OF PERSON SIGNING FORM

(b)(6)

14. DATE OF SIGNATURE

04/22/2016

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The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729)

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(b)(6)

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts)

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The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. **Principal Purpose:** The information requested is to be used in evaluating claims.

C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: Environmental Protection Agency, Kenneth A. Redden Claims Office, US EPA Office of the General Counsel 1200 Pennsylvania Avenue, NW (MC2399) VIA Email Only: R8_GKM_Claims@epa.gov			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. (b)(6)		
3. TYPE OF EMPLOYMENT (b)(6)		4. DATE OF BIRTH (b)(6)	5. MARITAL STATUS (b)(6)	6. DATE AND DAY OF ACCIDENT August 5 2015	
7. TIME (A.M. OR P.M.) 11:00 am					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). Gold King Mine Spill caused by negligence of the Federal Government by and through the Environmental Protection Agency.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). (b)(6)					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). (b)(6)					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. (b)(6)					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
(b)(6)		(b)(6)			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY 100,000,000.00		12c. WRONGFUL DEATH	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights). 100,000,000.00	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). (b)(6)			13b. PHONE NUMBER OF PERSON SIGNING FORM (b)(6)		14. DATE OF SIGNATURE 04/22/2016
PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☒ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☒ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☒ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

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